



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of :

SCHNEIDER, D. G.

Serial No.: 10/684,312

Art Unit: 3749

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Examiner: S. Gravini

Atty Docket: DGS001

Confirmation No: 3321

For: COLLAPSIBLE HEATING APPARATUS

Assistant Commissioner for Patents  
Alexandria, Virginia 22313-1450

**DECLARATION UNDER 37 CFR 1.131**

Dear sir:

1 I, Donna Gail Schneider, declare as follows:

2

3 1. I am the sole inventor of the above-referenced patent application.

4

5 2. An Office Action mailed July 1, 2008 in connection with the present  
6 application rejected claims 1-16 under 35 U.S.C. 102(e) in view of Deichler,  
7 Jr. (U.S. 6,708,604).

8

9 3. I conceived my invention and reduced it to practice in the United States long  
10 prior to May 22, 2003, the earliest effective filing date of U.S. Patent No.  
11 6,708,604.

4. As evidence of my reduction to practice, well before the effective filing date of the Deichler '604 patent, of all aspects and features of the presently claimed invention that are allegedly anticipated by Deichler, I have attached hereto as Exhibit 'A' photographs of an embodiment of the invention constructed and in operation in various configurations. For purposes of ensuring that the essential content of the photographs is preserved during copying and scanning at the Office and to provide high contrast line drawings suitable for the permanent record of the Office, Exhibit 'A' includes black-and-white contrast line renderings derived from the photographs using a common image processing software application. Where reference is made below to a given photograph-bearing sheet (i.e. Sheet 2), reference is also being made to the corresponding rendering derived from that photograph (i.e. Sheet 2a).

5. I was personally involved in designing, constructing and testing the unit as shown in these photographs and was present as these photographs were taken. I attest that the date on the index print of photographs, although redacted, is before January 1, 2003 and that this redacted date is on or after when the photographs were taken and/or were printed or processed. Accordingly, the photographs showing the claimed invention in operation demonstrate my reduction to practice well before the effective filing date of the Deichler '604 patent.

33 6. The attached photographs of an actual implementations of the invention in  
34 operation exhibit the presently claimed aspects and are explained as follows:  
35

36 (a) Sheet 1 of Exhibit A is an index print from a batch of photographs that  
37 included the other photographs described below. For privacy, some unrelated  
38 photographs on this index print have been obscured. I have first hand  
39 knowledge that all of the photographs I have included in Exhibit A are from  
40 the same batch of one or more reels of film represented by this index print that  
41 were exposed and submitted for processing together. I attest that this index  
42 print bears a complete date that, although partially redacted, indicates  
43 preparation of the index print on a date before January 1, 2003 and therefore  
44 well before May 22, 2003, the effective filing date of the Deichler '604 patent.  
45 Note that the year portion of the date is showing, indicating 2002 as the year.  
46 At least two of the photographs described further below appear on this very  
47 same index print. Thumbnail image 25H shown here corresponds to Sheet 3  
48 below and thumbnail image 24H corresponds to Sheet 4. The other  
49 photographs below appeared on other similar index prints included with this  
50 batch. All of the photographs described below show implementations of the  
51 claimed invention (hereinafter "the unit") in various in-use and ready-to-store  
52 configurations.

53  
54 (b) Sheet 2 of Exhibit A is a photograph associated with the aforementioned  
55 index print showing the unit having been assembled from a plurality of metal  
56 side panels that were formed to detachably connect to one another along their  
57 edges. Sheet 2 shows the assembled unit forming a space substantially closed

58 on all sides as might be appropriate for baking or smoking. A pair of panels  
59 have been employed, one atop the other, to both enclose the side and to  
60 provide support for a grill at a particular height within the frame so formed. A  
61 small lip of the grill edge may be seen protruding slightly from between the  
62 two panels.

63  
64 (c) Sheet 3 of Exhibit A is a photograph associated with the aforementioned  
65 index print and affords a view of the assembled frame in relation to the top  
66 and bottom parts which are readily separable from the rigidly assembled, self-  
67 supporting frame. This view shows a transverse member disposed within the  
68 frame about half way up and being supported there by resting, along an edge,  
69 on the top of the bottommost panel that forms the side. In this embodiment,  
70 the transverse member was also resting on a similar arrangement of panels  
71 (mostly obscured here by the top piece) on the opposite 'backside' of the  
72 assembled unit. The manner in which a transverse member rests upon panel  
73 edges within the frame is shown here and in other pictures (Sheet 6, for  
74 example) that follow. With respect to presently pending claim 14, these  
75 images demonstrate that my frame at this time comprised a transverse member  
76 for supporting an item to be heated and that the transverse member was  
77 coupled to the frame. Further, with respect to claim 16, and as explained in  
78 the presently pending application ([0054]-[0055]) this transverse member,  
79 when coupled to the frame as shown, maintained the shape of the frame in the  
80 rectangular form shown and improved rigidity of the frame at least by edge-  
81 stiffening the thin side panels and by keeping the end panels held apart,  
82 which, in turn, kept the joints between side panels and end panels in a

83 desirable position. Because of the joint shape employed in this  
84 implementation to connect end panels and side panels, as was later described  
85 in conjunction with FIG 2 of the application, the presence of the transverse  
86 member did indeed act to hold the panels in place.

87  
88 (d) Sheet 4 of Exhibit A is a photograph associated with the aforementioned  
89 index print and shows an arrangement of side panels, different than for Sheet  
90 2, affecting, in this instance, both how much of the side is enclosed and which  
91 portion of the side is enclosed. Thus, Sheet 2 and Sheet 4 depict two different  
92 constructions that I built from the same 'kit' of panels. In Sheet 4, a panel has  
93 been excluded from the structure and the volume that is substantially enclosed  
94 is considered to have changed in comparison to Sheet 2. The side panels in  
95 this particular implementation were designed to firmly insert or wedge into  
96 adjoining pieces and to stay put in any vertical position for light loads. (An  
97 example of joints that were used to accomplish this are shown in FIG. 2 of the  
98 pending application.) At the time I built and tested the implementation shown  
99 in these photographs, I personally and intentionally chose this design to allow  
100 various panels to be a) interchangeable, b) selectively included or excluded in  
101 the construction and c) freely positioned and sequenced by a user while  
102 constructing the unit. In this implementation, the upper and lower panels  
103 shown on Sheet 2 were of similar dimension and so the degree of enclosure  
104 was primarily varied by my changing the number of panels used in  
105 constructing the side. Thus, with respect to claim 1 in the present application,  
106 comparing Sheet 2 to Sheet 4, I selected a configuration of panels to form a  
107 side of the frame to adjust an attribute of the enclosure, the attribute including

108 how much of the side was enclosed, which portion of the side was enclosed  
109 and a volume substantially enclosed by the frame. Further, with respect to  
110 claim 8, I selectively configured the side of the frame by employing a  
111 selectable quantity of panels to affect these attributes of the enclosure.  
112

113 (e) Sheet 5 of Exhibit A is a photograph associated with the aforementioned  
114 index print showing yet another configuration wherein , in comparison to  
115 Sheet 2, a shorter side panel was used in the design and assembly of the frame  
116 of the unit to establish a lower grill position. Furthermore, note the  
117 availability of two other interchangeable panels on the ground in front of the  
118 unit that were designed to replace the first panel that is shown to be already in  
119 position, or to be inserted above the first panel to either further enclose the  
120 heated space or to elevate the grill (a transverse member) to a higher position.  
121 These panels also were specifically designed to be inserted in any arbitrary  
122 order from bottom to top to support one or more grills or other transverse  
123 members in variable configurations. The first panel already inserted and the  
124 panels on the ground had different widths (corresponding to different vertical  
125 dimensions when incorporated in the assembled unit), lending to finer control  
126 over the grill positioning as well as control over the proportion and position at  
127 which a variably-configured side of the unit was enclosed. In particular, these  
128 panels measured 3.5", 3" and 2.5" as indicated on Sheet 5b as panels A,B and  
129 C, respectively. Thus, these panels had a particular physical dimension that  
130 affected attributes of the enclosure. Configuration of the enclosure was  
131 achieved by the user selecting, during assembly, from among these panels  
132 having different measurements. As one or more panels were installed to form

133 a side of the unit, the width dimensions of each panel translated into a vertical  
134 height relative to the assembled standing frame. As shown, the 'backside' of  
135 this unit was constructed of a second set of three panels having these same  
136 dimensions. As I positioned one or more of the panels on the front side to  
137 vary the height of the grill (transverse member), I necessarily had to change  
138 the order in which the similar panels were stacked to fill in the backside.  
139 Thus, I varied the sequence of stacking and, therefore, the position at which  
140 each panel coupled to the remainder of the frame assembly. I declare that  
141 these panels shown in this photograph were of different 'widths' and that I  
142 deliberately designed and fabricated them that way to reduce to practice that  
143 which the present claims recite.

144  
145 (f) Sheet 6 of Exhibit A is a photograph associated with the aforementioned  
146 index print showing an operation of the unit while configured in a manner  
147 similar to Sheet 5, that is, with the top removed for easy access to items and  
148 utensils on the grill. In this and other photographs, note the manner in which  
149 the grill or other transverse members rest upon and, in a groove or channel  
150 along its periphery, engages the top edge of the side panel to cooperatively  
151 maintain a rigid, fixed-shape structure and to hold the side panel in place.  
152 Also noteworthy is the fact that, in comparison to Sheet 5, a 'shorter' panel  
153 has been employed on one side of the assembly, replacing the taller panel, to  
154 allow the grill to be supported closer to the heat source. Compared to the  
155 taller panel, this shorter panel has the same horizontal span but has a lesser  
156 dimension along a relatively vertical direction when the panel is installed as  
157 part of the frame. Even without a complex geometric analysis of the photos,

the photographs demonstrate, even to a casual observer, that the panels were of different dimensions and were selectively included or excluded in the assembled unit to vary the position and extent to which a side of the frame was enclosed. On many occasions while testing the unit shown, I did place each of panels A, B and C in the role of the bottom front panel, placed the grill to rest upon this bottom front panel (both directly and with other intervening panels stacked between), and did stack similar panels A, B and C in different sequences along the back side of the unit. In the particular unit shown, this practice was inherently required to provide an even support for the grill, front-to-back, with the front arrangement determining how the back panels would need to stack. (This ability for a user to freely select which panels to use during assembly and to vary the order and position of panel placement is also depicted in my pending application. One may compare the placement of panels 302, 304 and 307 in FIG 4 versus FIG 5. This is also evident in FIG 3 versus FIG 6 with respect to position of panels 302 and 304.) Additionally, Sheet 6b is labeled to more clearly point out the relevant features, namely the bottom panel placed along the front side and supporting the grill, plus two separate panels in back. (The bottommost back panel, similar in dimension to the front panel, is not clearly seen here but is the point of support for the back edge of the grill.) In this embodiment, the front panel was chosen from among panels A, B and C described above (3.5", 3", 2.5") and the back panels pointed out here were selected from the remaining two dimensions. In this view, the 3" panel (B) is selected for the front, the middle back panel is 3.5"(A) and the topmost panel is 2.5"(C). I selected these dimensions for the panels to provide a variety of height combinations (2.5, 3,



183 3.5, 5.5, 6, 6.5, 9), with many of the intervals between combinations being  
184 only one-half of an inch. This allowed fine control over grill position. In  
185 comparison, to Sheet 5, Sheet 6 shows a different 'stacking' of the panels,  
186 with the widest panel 'A' being at the bottom to support the grill at a different  
187 height. In the year 2002, to transition this assembly from the configuration in  
188 Sheet 5 to the configuration in Sheet 6, I selected a different subset of the  
189 available panels to employ in the assembly and selected where to couple each  
190 panel to the remainder of the frame. With respect to pending claim 9, these  
191 photos demonstrate that I selectively employed a combination of panels to  
192 form the side and selectively positioned the panels to affect both how much of  
193 the side was enclosed and which portion of the side was enclosed. This is  
194 evident even comparing the front side to the back side in each instance. With  
195 respect to presently pending claim 14, a transverse member is seen here and in  
196 other photos to have been coupled to the frame and supporting the item being  
197 heated. Furthermore, with respect to pending claims 10, 11 and 12, Sheets 5  
198 and 6 show that I selectively employed a combination of panels to form the  
199 side and selectively positioned the panels to affect both how much of the side  
200 is enclosed and at what position the transverse member was supported by the  
201 frame as well as what portion of the side was enclosed, with some panels  
202 comprising the configurable side(s) being the same ones that support the  
203 transverse member (in this case, the grill) .

204  
205 (g) Around the time these photographs were taken, I personally exercised the  
206 unit by interchanging panels, during disassembly and reassembly, to form  
207 various configurations, by including or excluding certain panels in the

208 assembled unit (of differing dimensions in some cases, in other cases varying  
209 the number of like-dimensioned panels) to achieve desired grill height and  
210 substantially enclosed volume. I also changed the order of panel placement  
211 from bottom to top to independently vary the height of the grill and to what  
212 extent, and at what position, a side of the frame was either opened or closed.  
213 At the time this implementation was built, I intentionally designed the unit  
214 shown to facilitate agility in changing configurations and to provide a wide  
215 variety of useful configurations. For testing and evaluation, I personally  
216 performed many assemblies, disassemblies and reconfigurations of the unit  
217 shown in pursuit of these desirable characteristics. Thus, I was in complete  
218 and enabling possession of the claimed invention at the time the photographs  
219 were taken and hereby declare unequivocally that, at least as early as these  
220 photographs were taken, I fully recognized and actively pursued, by design,  
221 the attributes of the presently claimed invention, resulting in the actual  
222 reduction to practice shown herein. As to presently pending claim 6, I  
223 declare, and believe that comparison of Sheets 5 and 6 demonstrates, that I  
224 selectively configured a side of the frame by selectively choosing among, in  
225 constructing the side, a first panel (A) having a first measurement (3.5") in a  
226 given dimension and a second panel (B) having a different second  
227 measurement in the dimension (3"). Considering pending claim 7, when  
228 either panel A or panel B was used as the bottommost front panel, the  
229 differing dimensions varied the grill-support position in a vertical direction  
230 when installed in the erected frame.

(h) Sheet 7 of Exhibit A is a photograph associated with the aforementioned index print showing the individual panels from which the frame of the unit was then constructed in the manner described above for the other photographs. In accordance with this embodiment, all of the thin detachable panels conveniently stored between the top and bottom 'lids' of the unit. The top and bottom were made to slide together and interlock so that the complete unit, including the grill and the side panels, formed a compact, enclosed form with about the size and shape of an average book. In transitioning between the collapsed form shown here and the erected forms shown in Sheets 2-6, the panels were detachably coupled substantially along their adjacent edges using joints of the types described in FIG 2 of the application and in the accompanying text in the specification. As to claim 15, I declare that, due to the engagement between the grill and side panels that is evident in Sheet 6 and elsewhere, the grill was removably coupled to the frame (removed by lifting upward off of the side panels and out of the frame) and, due to the joint arrangement, was removed before collapsing, by disassembling, the frame by then separating the end panels from the side panels.

7. I do not know of any instance, and do not believe that there has been any instance, in which my invention has been in public prior to my invention and I have never abandoned the invention.

8. All statements made herein are true of my own knowledge and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willfull false statements and

257           the like so made are punishable by fine or imprisonment or both under Section  
258           1001 of Title 18 of the United States Code and that such willfill false  
259           statements may jeopardize the validity of any patent that may issue from the  
260           present application.

261

Respectfully submitted,

A handwritten signature in cursive script that reads "Donna Gail Schneider".

Donna Gail Schneider

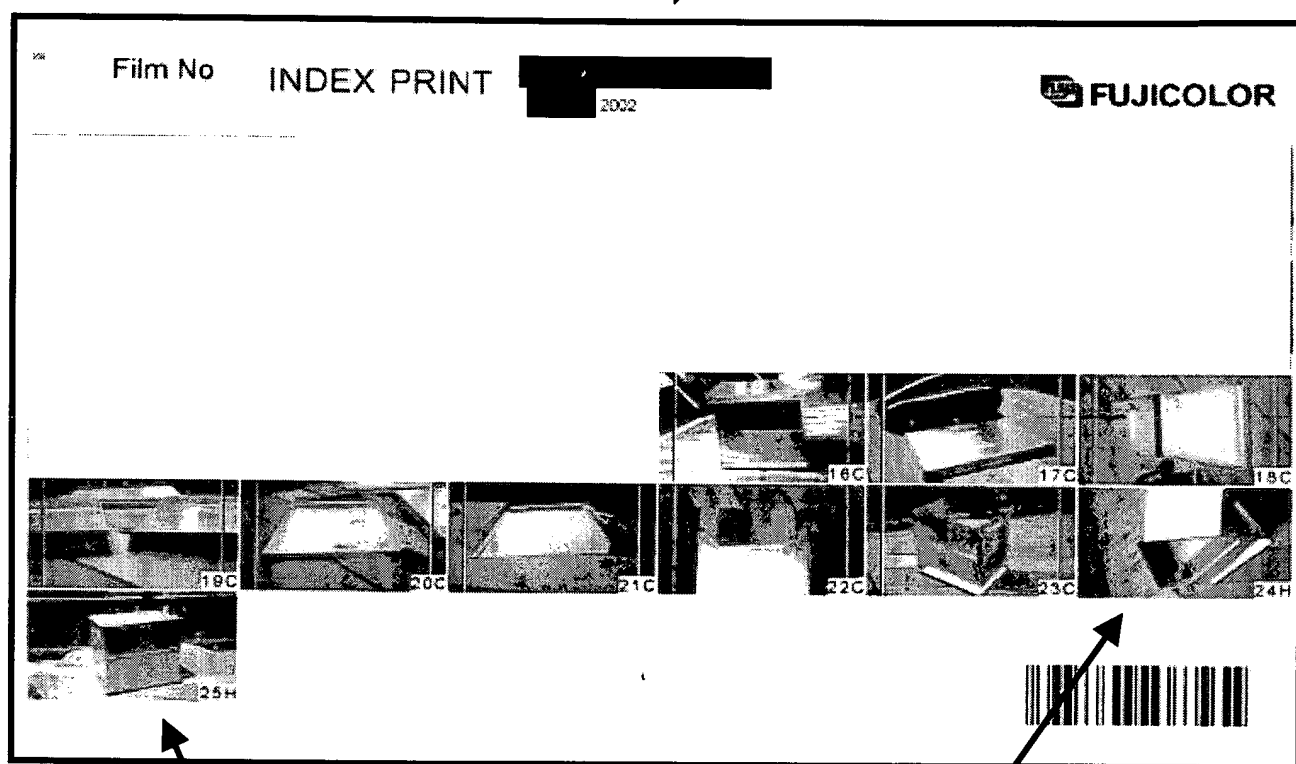
09-09-2008

Date

**EXHIBIT 'A'**

## Exhibit A - Sheet 1

Complete date that appeared here is redacted, but year '2002' remains visible



25H



24H

## Exhibit A - Sheet 2

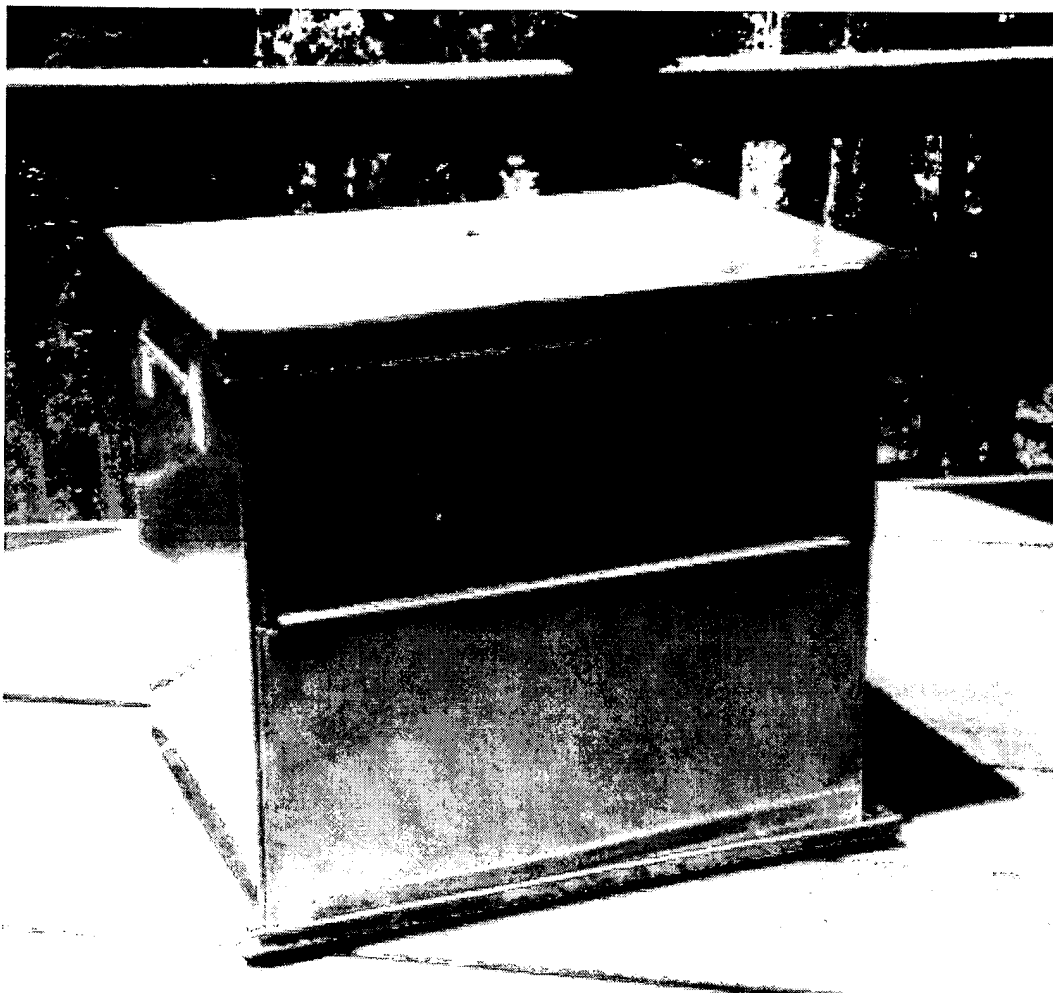


Exhibit A - Sheet 2a

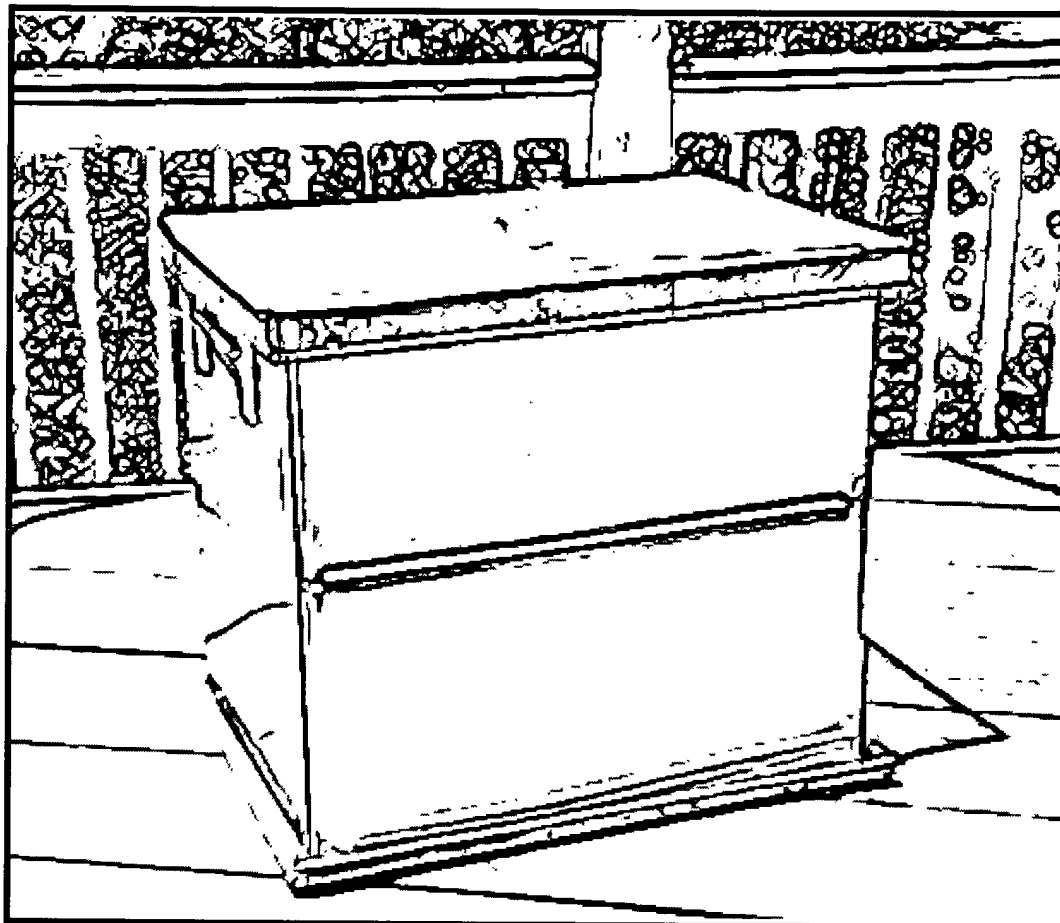




Exhibit A - Sheet 3

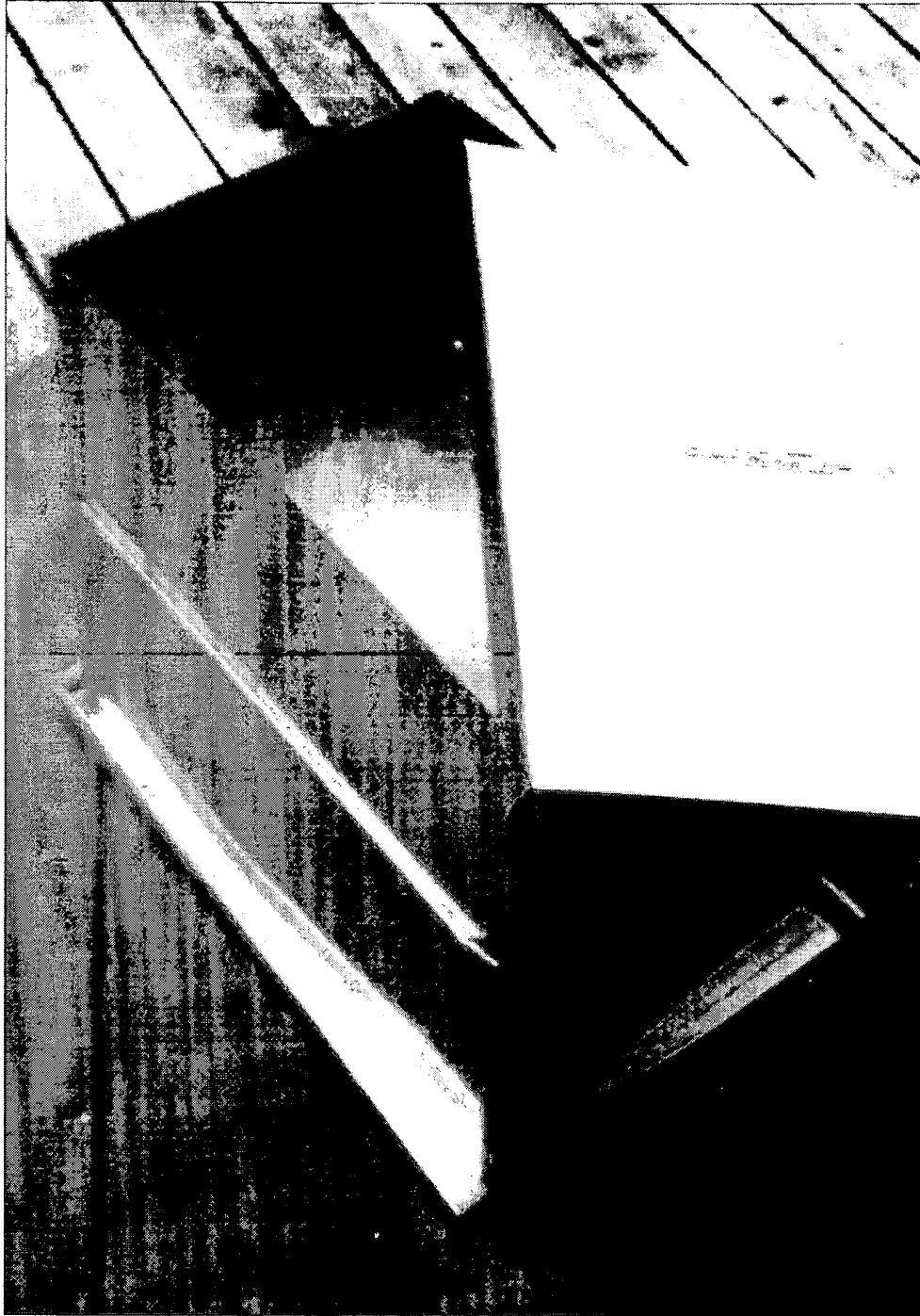


Exhibit A - Sheet 3a

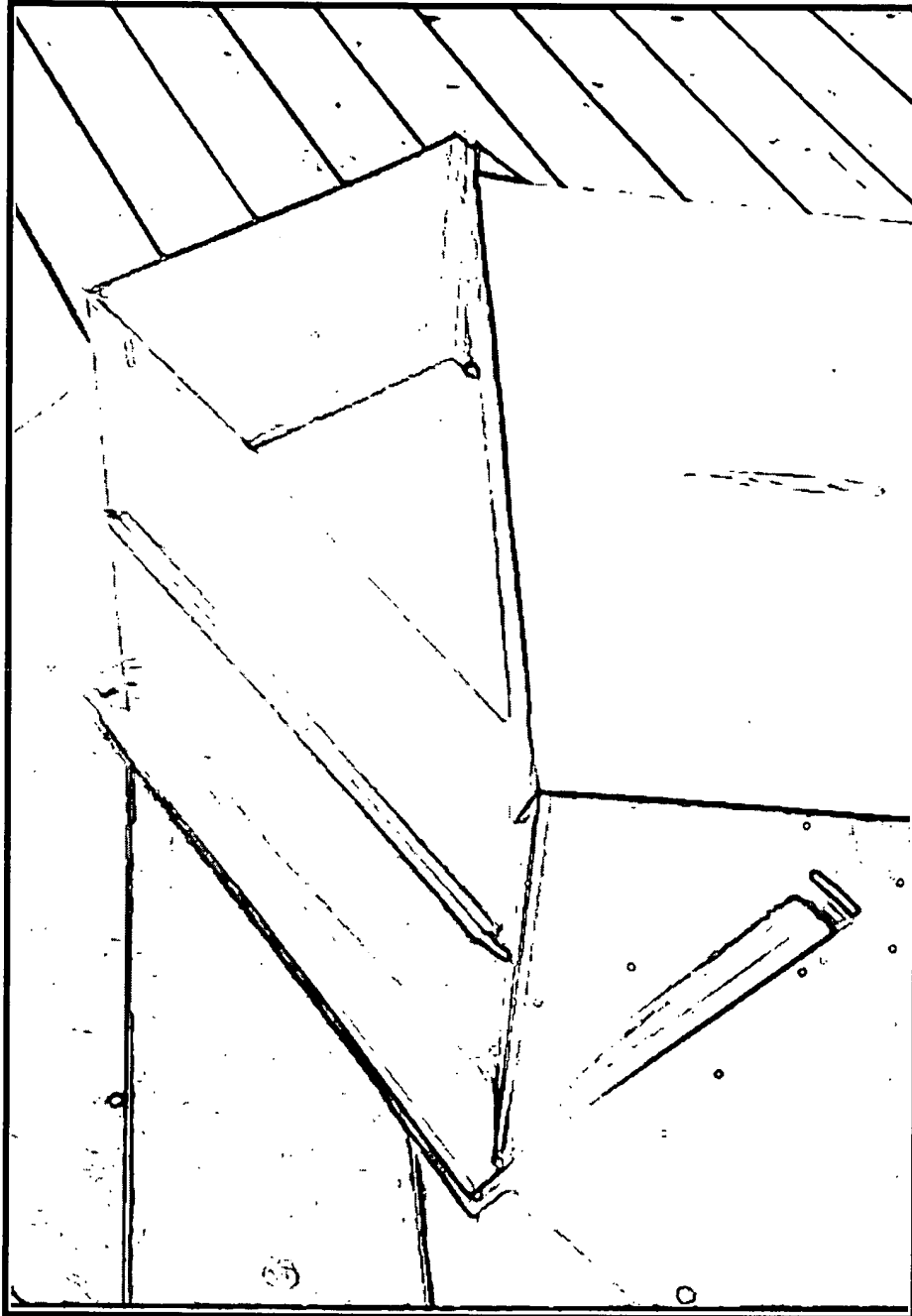


Exhibit A - Sheet 4

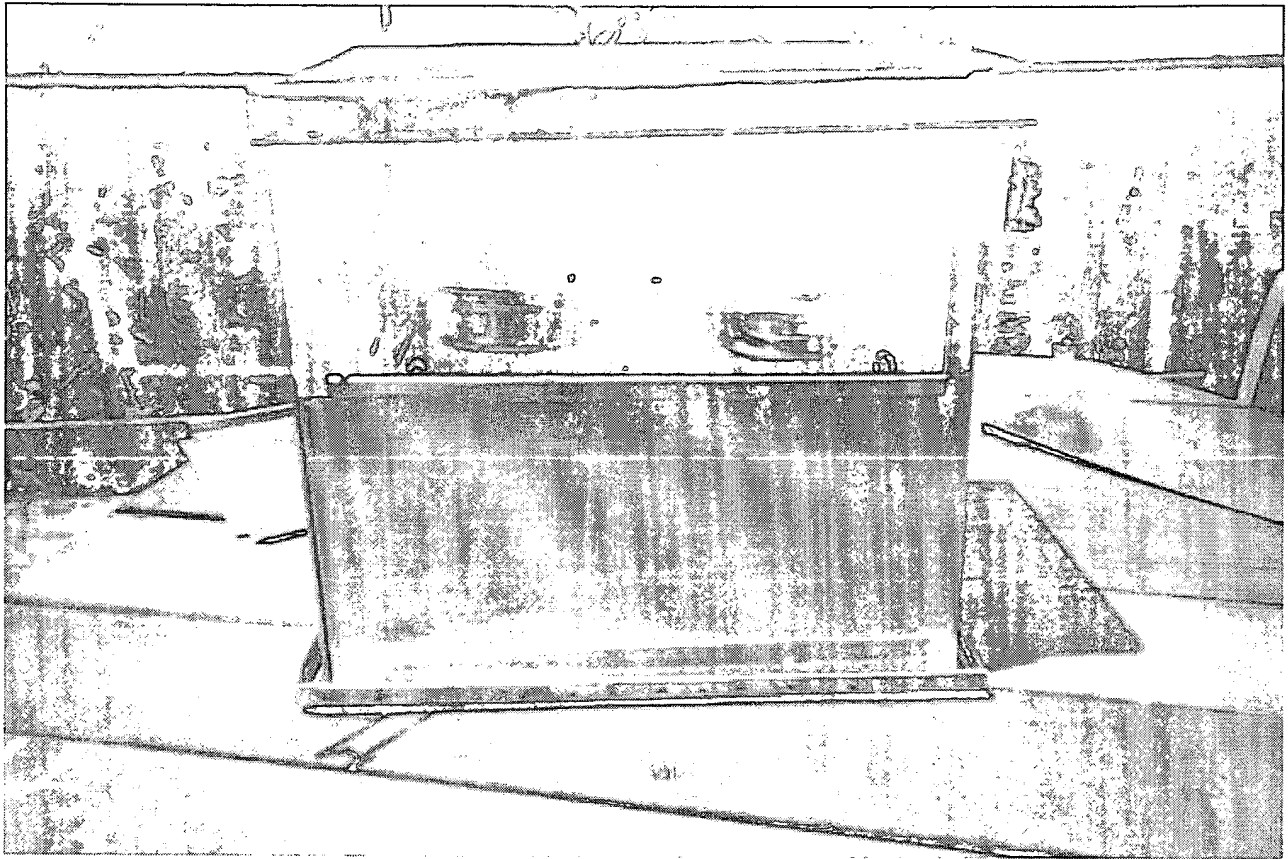


Exhibit A - Sheet 4a

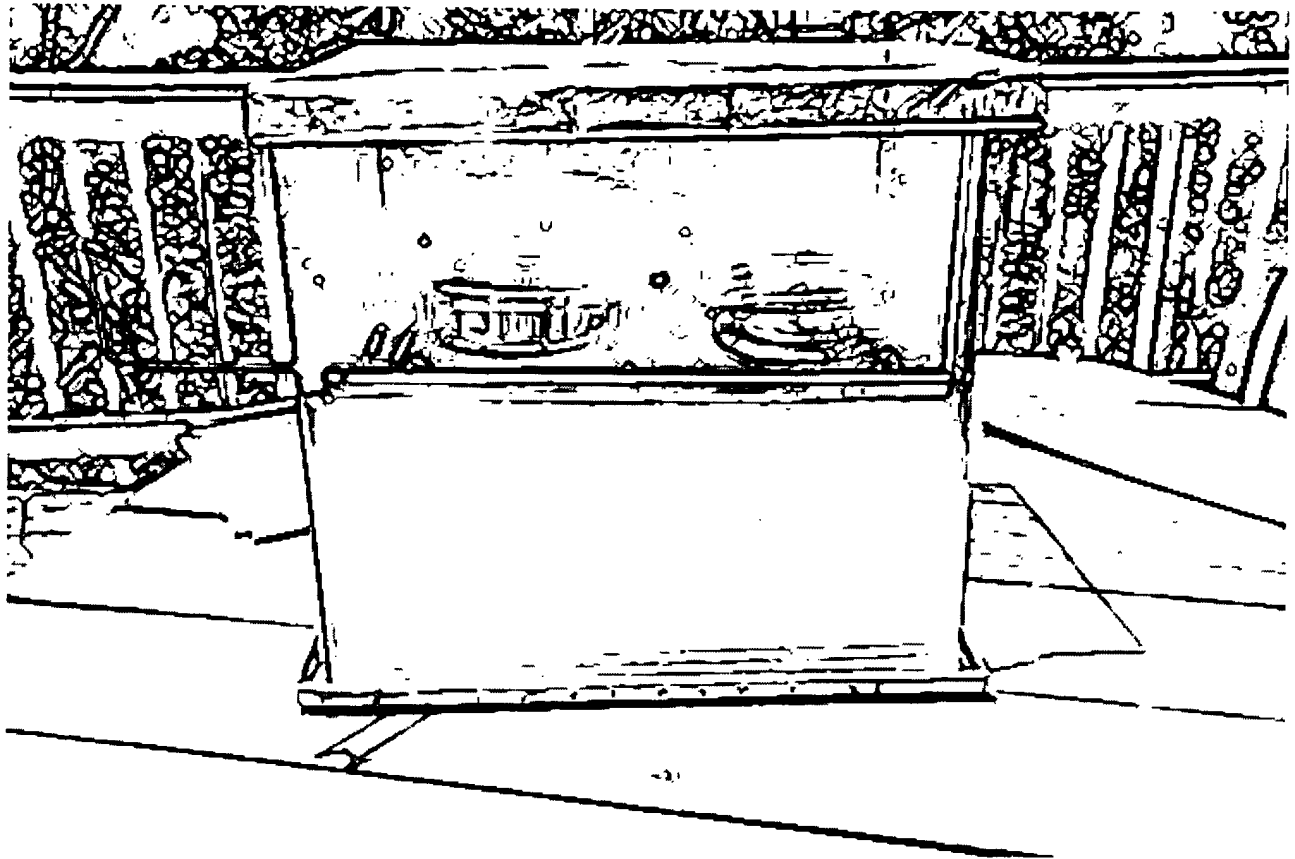


Exhibit A - Sheet 5

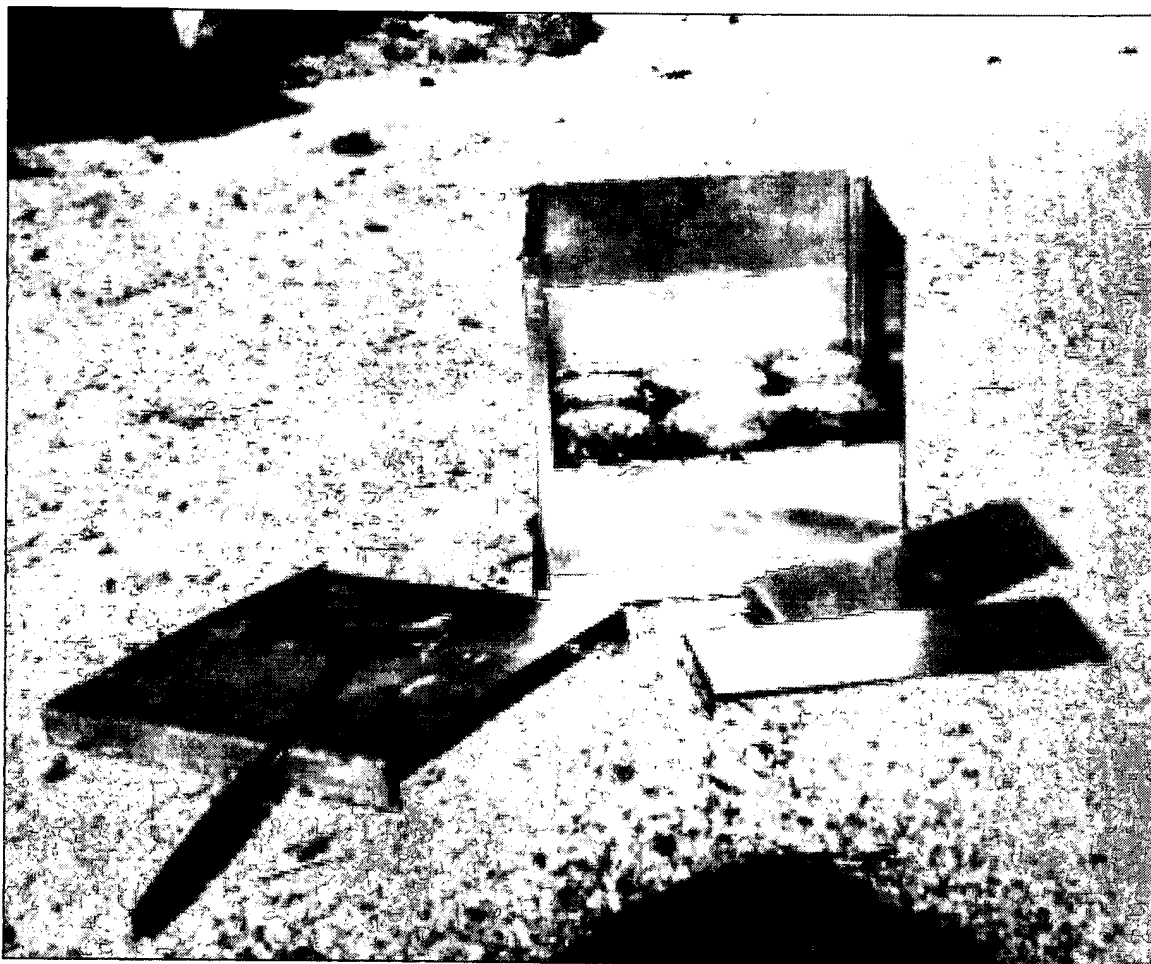


Exhibit A - Sheet 5a

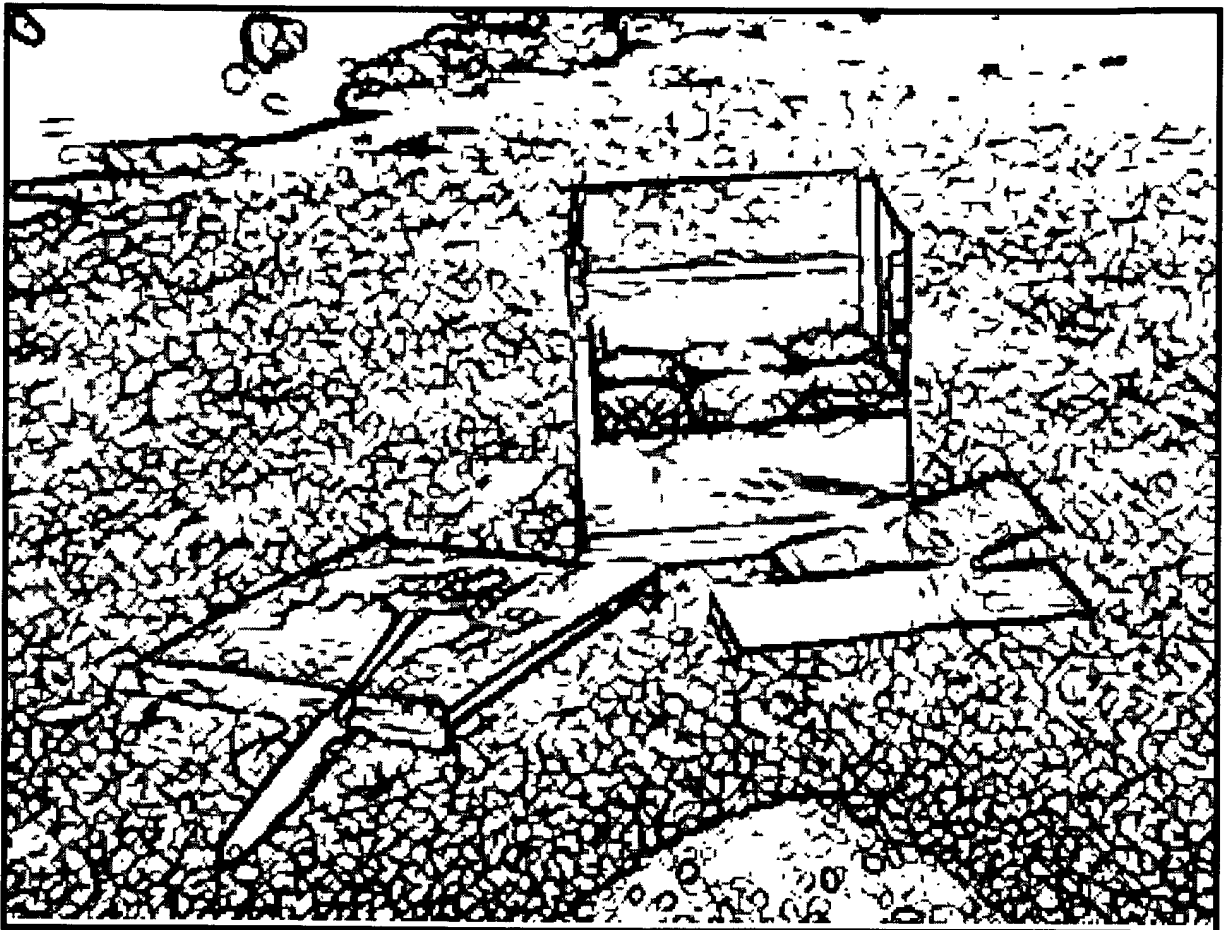


Exhibit A - Sheet 5b

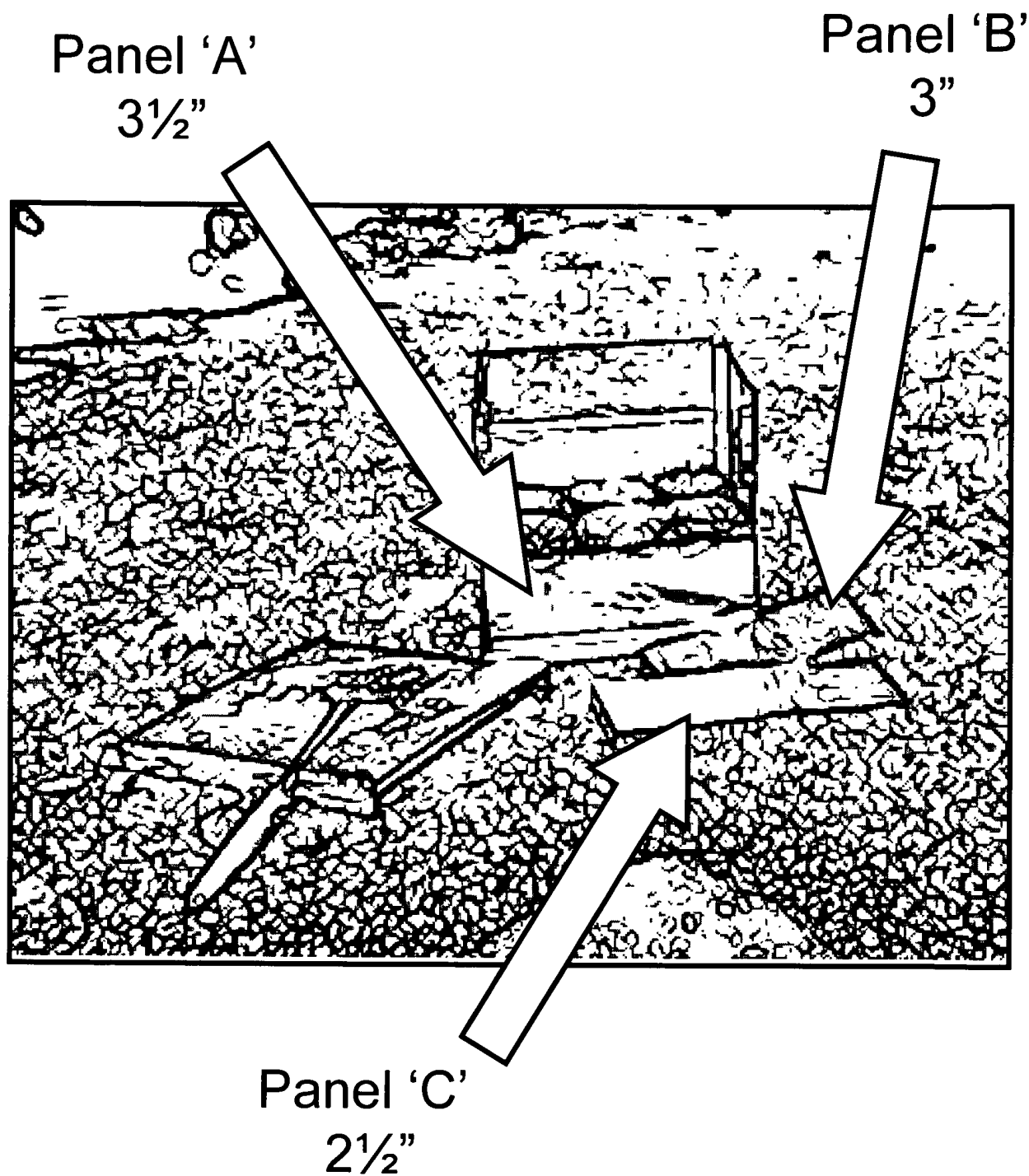
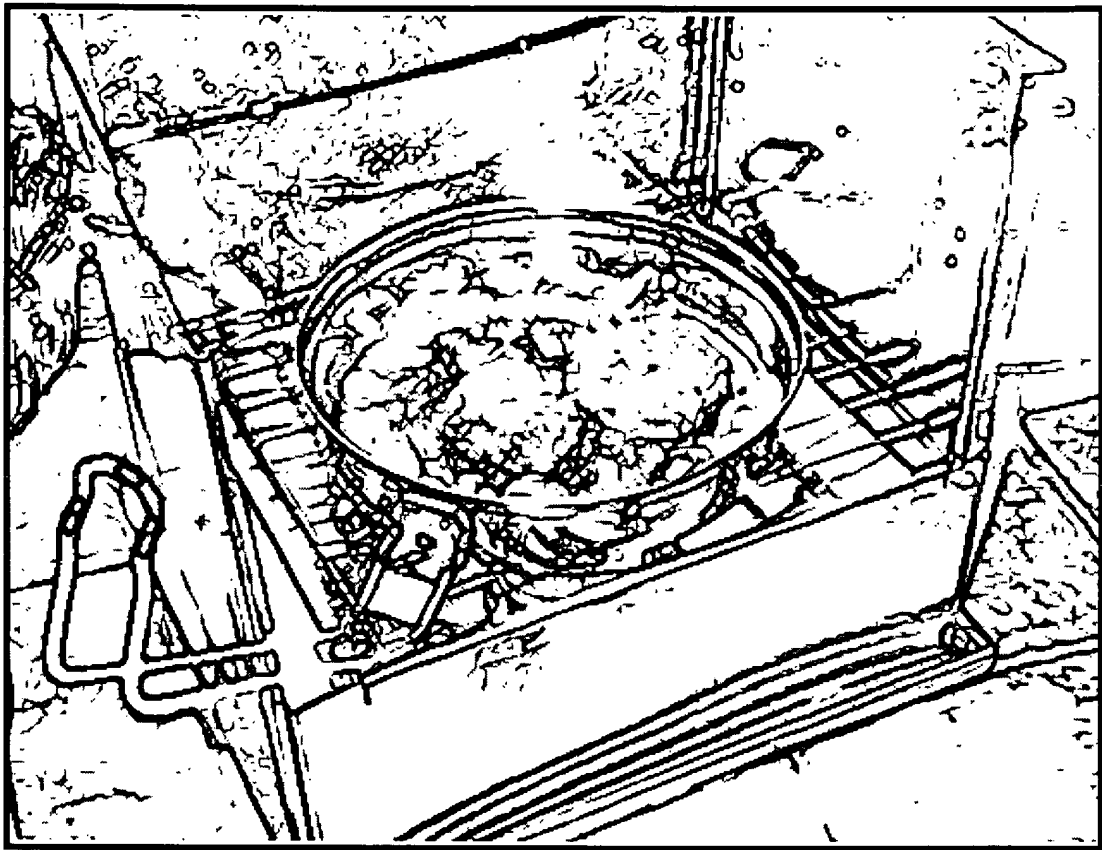


Exhibit A - Sheet 6





Exhibit A - Sheet 6a



## Exhibit A - Sheet 6b

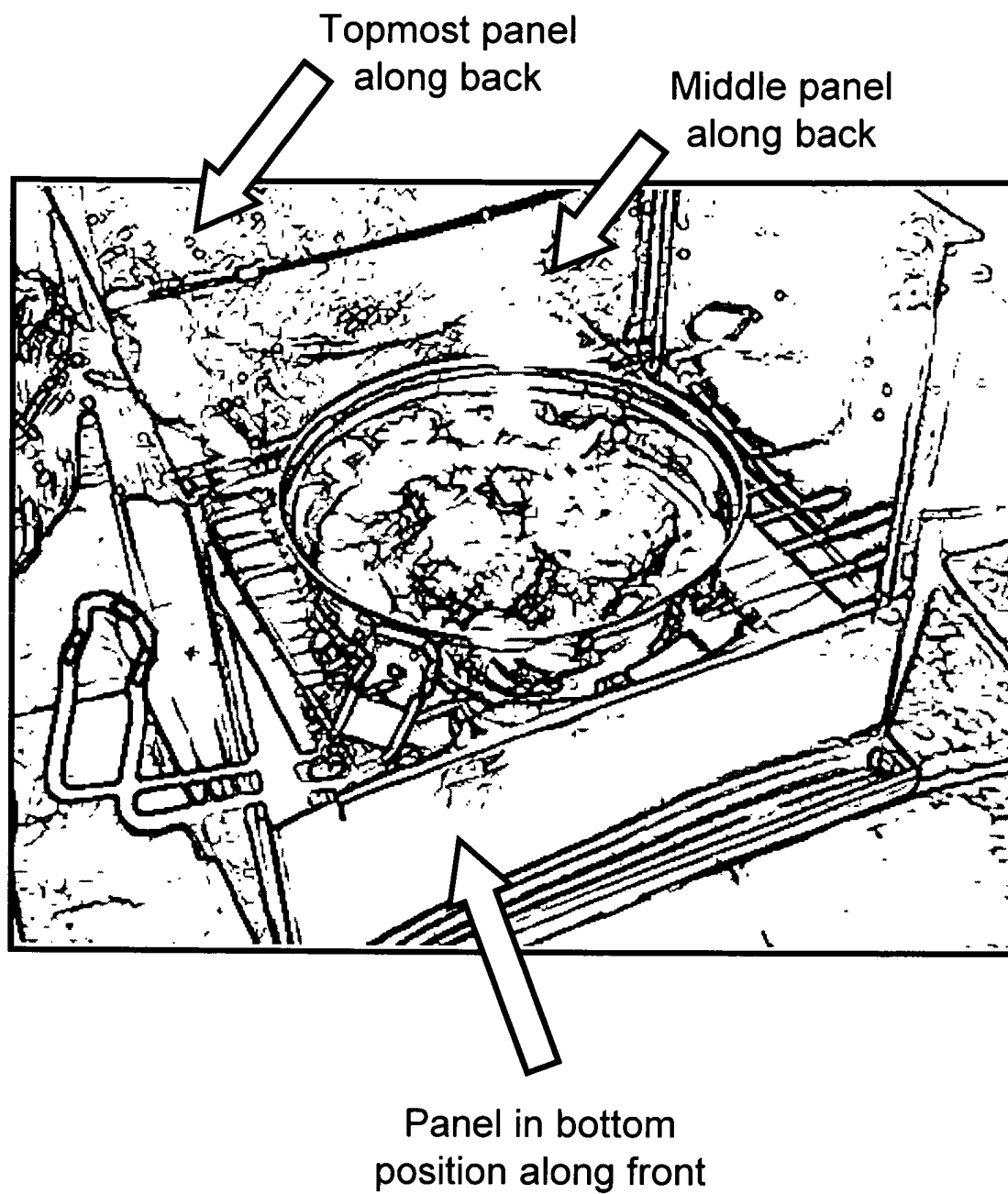


Exhibit A - Sheet 7

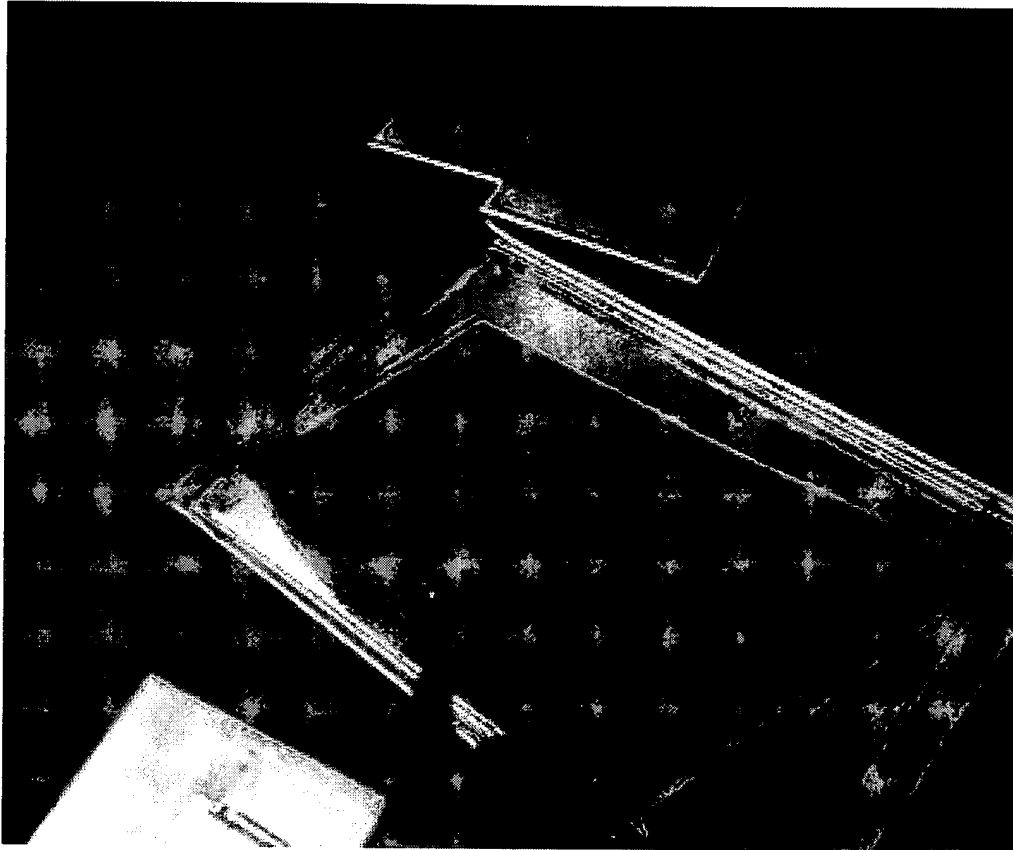


Exhibit A - Sheet 7a

